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NO. 83-5670

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1983

JOHN JOSEPH LEVASSEUR,

Petitioner,

v.

COMMONWEALTH OF VIRGINIA,

Respondent.

RESPONSE TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF VIRGINIA

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QUESTIONS PRESENTED

I. Was the State Trial Court's Refusal to Strike a Particular Juror for Cause on the Basis of Her Attitude Toward the Use of Illegal Drugs, If Error, Harmless Beyond a Reasonable Doubt?

II. Does the State Trial Court's Refusal to Permit Further Voir Dire Concerning Juror Attitudes Toward the Use of Illegal Drugs Present a Federal Question?

III. Did Petitioner Properly Preserve for Review by This Court His Claim That the State Trial Court Erred by Denying Him an Opportunity to Voir Dire a Particular Juror? Did the Trial Court Err by Excluding a Particular Juror in Violation of Witherspoon v. Illinois?

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JURISDICTION

The petitioner asserts that the jurisdiction of this Court is grounded upon 28 U.S.C. § 1257(3).

CONSTITUTIONAL PROVISIONS INVOLVED

The constitutional provisions involved in the instant case are set forth in the Petition for Writ of Certiorari.

PRELIMINARY STATEMENT

References to the Petition for Writ of Certiorari will be designated, "(Ptn. ___)." All references to the appendices of the Petition for Writ of Certiorari will be designated, "(App. ___)." References to the trial transcript will be designated, "(Tr. ___)."

STATEMENT OF THE CASE

On September 2, 1982, a jury in the Circuit Court of Prince William County, Virginia, convicted petitioner of capital murder. On September 3, 1982, after a separate hearing on the issue of punishment, the same jury recommended the death penalty. On November 5, 1982, the Circuit Court imposed the death penalty in accordance with the jury verdict. (App. C). Petitioner's conviction and death sentence were affirmed on appeal by the Supreme Court of Virginia on June 17, 1983. (App. A). LeVasseur v. Commonwealth, ___ Va. ___, 304 S.E.2d 644 (1983). A petition for rehearing was denied by the Supreme Court of Virginia on September 9, 1983. (App. B).

STATEMENT OF FACTS

The father of Pam Benner last saw her alive on the morning of February 25, 1982. She was at home when he and the other family members left to go to work. (Tr. Vol. I at 220). When they returned at approximately 5:40 p.m., they found Pam's body in the family room with a fork and an ice

P892 pick protruding from her back. (Tr. Vol. I at 226).

The Medical Examiner stated that the cause of death was multiple severe injuries, predominantly massive head injury with fracture of the skull and damage to the brain. The victim had "defensive wounds" on her arms and hands and the large wound to her head was consistent with having been struck with a fireplace poker. (Tr. Vol. II at 42-44). Some of the stab wounds were inflicted after the victim had died but many were inflicted before death occurred. (Tr. Vol. II at 45-46). An attempt had been made to set the body on fire. (Tr. Vol. I at 195).

At approximately 4:15 p.m. on February 25, 1982, the petitioner and his wife visited Gerald Frazier. Petitioner told Frazier that he needed an alibi and that he wanted to be able to say that he had been with Frazier between 2:00 and 4:00 p.m. that day. Frazier told the petitioner he could not provide such an alibi. When he asked the petitioner why he needed the alibi, the defendant said that he "had killed somebody." (Tr. Vol. II at 54).

According to Frazier, the defendant said that he had killed a girl named Pam. When Frazier asked why he had killed her, the petitioner said that he "went to rob her." The petitioner told Frazier that he entered the house through the back door, hit the girl in the back of the head, and that she fell to the floor. (Tr. Vol. II at 55). The petitioner also admitted to Frazier that he stabbed the girl with a fork and an ice pick. He told Frazier that he then looked for money in the house but found only a few dollars. According to Frazier, the petitioner said that he then, in an effort to destroy the evidence, poured bleach on the girl's body. (Tr. Vol. II at 56). Frazier testified that the petitioner told

him that he had disposed of his bloody clothing in a dumpster at the Bayview Apartments. (Tr. Vol. II at 57).

Frazier described the petitioner's demeanor during this meeting. The petitioner did not appear to be drunk or intoxicated. (Tr. Vol. II at 58). Frazier described him as "coherent" and said there was "nothing unusual" about him. (Tr. Vol. II at 64).

Acting on the information which was supplied by Frazier, the police recovered a bag from a dumpster at the Bayview Apartments. The bag contained, in addition to the petitioner's clothes, various items that were taken from the Benner home at the time of the robbery-murder. (Tr. Vol. II at 95).

The petitioner testified that he started smoking marijuana early on the morning of February 25, 1982. (Tr. Vol. III at 9). After an unsuccessful attempt to get a job, he went to a restaurant where he consumed two beers and ingested some LSD. (Tr. Vol. III at 12). During this time he was thinking about his father who had recently died of cancer. The petitioner subsequently began to feel ill. According to the petitioner he felt "limp" and experienced sharp pains in his head. Petitioner testified that he wanted to go to a friend's house and that he decided to go to Pam Benner's. (Tr. Vol. III at 17).

The petitioner stated that he knocked on the front door but no one answered. He then looked in a window and saw Pam "eating eggs" and "watching t.v." When the petitioner knocked on the door again, Pam responded and let him in. (Tr. Vol. III at 18).

During a conversation with Pam, the petitioner became upset when Pam made "snide" remarks. He saw a "flash of

light," and a vision of his father in Walter Reed Hospital. (Tr. Vol. III at 22-24). The petitioner then "saw" a family friend come into the hospital room and begin to drag him away from his father. According to the petitioner, he then "started beating on" this family friend. (Tr. Vol. III at 25).

The petitioner testified that the next thing he remembered was seeing Pam's body with two objects sticking out of her back. (Tr. Vol. III at 26). He did, however, remember hearing Pam scream during the vision. According to the petitioner when he saw Pam's body he "panicked." He left by the front door and he admitted that he had items from the Benner home with him when he left. (Tr. Vol. III at 30).

The petitioner went home and told his wife that he thought he had "killed somebody." He then showered, but while doing so, he fell down several times and saw a vision of himself murdering Pam with a fireplace poker. (Tr. Vol. III at 32). The petitioner and his wife then put the petitioner's clothes and the items he took from Pam's house in a bag. They took the bag to the Bayview Apartments where they threw it in a dumpster. They then went to a bank where the petitioner's wife withdrew money so that petitioner could leave town. (Tr. Vol. III at 33).

The petitioner admitted that he and his wife went to see Frazier and that petitioner told Frazier that he needed an alibi. According to the petitioner, he "wanted something to back me up in case I did get turned in." (Tr. Vol. III at 34). After petitioner returned to his home he listened to a police scanner to monitor reports about the killing. He thought about fleeing, but instead he decided to "check with

[his] lawyer." On the advice of counsel he surrendered to the police the next day. (Tr. Vol. III at 43).

REASONS FOR DENYING THE WRIT

I. The state trial court's refusal to strike a particular juror for cause on the basis of her attitude toward the use of illegal drugs, if error, was harmless beyond a reasonable doubt.

The trial court's refusal to strike a particular juror, Anna Cornwell, on the basis of her attitude toward the use of illegal drugs was not error. The voir dire demonstrates that this juror was fair and impartial. (See excerpts of transcript accompanying this Response). Petitioner's claim is based upon this juror's responses to questions posed by defense counsel which the Supreme Court of Virginia found to be "equivocal...clearly misunderstood by the juror...[and] so ambiguous as to render the answer meaningless." (App. A at 11).

In any event, respondent asserts that the trial court's refusal to strike this juror for cause was harmless beyond a reasonable doubt since the record clearly shows (App. A at 10), and the petitioner concedes (Ptn. at 4), that the prosecution removed this juror from the jury panel by the exercise of one of its peremptory strikes. Thus, even assuming, arguendo, that the juror in question should have been removed from the jury panel for cause, the petitioner was not forced to use one of his peremptory strikes to remove the juror. Under these circumstances, it is clear beyond any reasonable doubt that petitioner was not prejudiced by the ruling of the trial court. Chapman v. California, 386 U.S. 18 (1967); United States v. Vera, 701 F.2d 1349, 1356 (11th Cir. 1983); United States v. Rucker, 557 F.2d 1046, 1049 (4th Cir. 1977);

United States v. Nell, 526 F.2d 123, 1229 (5th Cir. 1976); United States v. Boyd, 446 F.2d 1267, 1275 n.27 (5th Cir. 1971); State v. Beckwith, 46 N.W.2d 20, 23 (Ia. 1951); State v. Louviere, 124 So. 188 (La. 1929).

II. The state trial court's refusal to permit further voir dire concerning juror attitudes toward the use of illegal drugs does not present a federal question.

The Supreme Court of Virginia held that the trial court did not abuse its discretion when it ruled that petitioner could not voir dire prospective jurors, examined after Anna Cornwell, concerning their attitudes toward the use of illegal drugs. (App. A at 12-13). The Supreme Court ruled that petitioner's questions, at least as they had been asked, "were calculated to elicit a prospective juror's underlying attitude toward the use of illegal drugs generally," and "were not relevant to a determinmation of bias or prejudice" within the meaning of § 8.01-358, Code of Virginia. (App. A at 13).

Petitioner contends that the trial court's refusal to permit further voir dire concerning juror attitudes toward the use of illegal drugs deprived him of his right to a fair and impartial jury as guaranteed by the Sixth and Fourteenth Amendments. Respondent, however, asserts that the trial court's ruling, as affirmed by the Supreme Court of Virginia, involves only a matter of state law and does not present a federal question.

At the outset, respondent notes that petitioner did not proffer the questions which he claims he was prevented from asking the prospective jurors. (App. A at 13). See also United States v. Hargrove, 647 F.2d 411, 413-14 (4th Cir. 1981).

In Ristaino v. Ross, 424 U.S. 589 (1976), this Court stated:

> The Constitution does not always entitle a defendant to have questions posed during voir dire specifically directed to matters that conceivably might prejudice veniremen against him.... Voir dire 'is conducted under the supervision of the court, and a great deal must, of necessity, be left to its sound discretion.' Connors v. United States, 158 U.S. 408, 413 (1895).... This is so because the 'determination of impartiality, in which demeanor plays such an important part, is particularly within the province of the trial judge.' Rideau v. Louisiana, 373 U.S. 723, 733 (1963) (Clark, J., dissenting). Thus, the State's obligation to the defendant to impanel an impartial jury generally can be satisfied by less than an inquiry into a specific prejudice feared by the defendant.

424 U.S. at 594-95.

This Court recognized in Ristaino that, while in some cases the refusal of the trial court to permit voir dire specifically about racial prejudice may constitute "an impermissible threat to the fair trial guaranteed by due process," the refusal of a trial court to permit voir dire about specific juror prejudices feared by a defendant will not often rise to constitutional dimensions. 424 U.S. at 595-97. See also Rosales-Lopez v. United States, 451 U.S. 182 (1981).

Respondent asserts that the trial court's ruling in this case, as affirmed by the Supreme Court of Virginia, clearly does not involve a matter of federal constitutional dimensions. The issue here did not concern matters of racial or ethnic prejudice. See Ham v. South Carolina, 409 U.S. 524 (1973). There was no "significant likelihood" or "reasonable possibility" that racial or ethnic prejudice would affect the jury. Ristaino v. Ross, 424 U.S. at 598; Rosales-Lopez v. United States, 451 U.S. at 194. The only issue here was petitioner's fear that prospective jurors might be prejudiced against him because of his admitted use of illegal drugs.

Although petitioner's alleged use of illegal drugs was the basis for petitioner's asserted defense of voluntary intoxication, the question of whether prospective jurors could be questioned generally about their attitudes toward the use of illegal drugs is a matter of state law and a matter particularly within the discretion of the trial court. See Connors v. United States, 158 U.S. 408, 414 (1895). "[T]he Constitution leaves it to the trial court, and the judicial system within which that court operates, to determine the need for such questions." Rosales-Lopez v. United States, 451 U.S. at 190 (emphasis supplied).

In this case, the trial court conducted a general inquiry to ascertain the impartiality of all of the prospective jurors. (See excerpts of transcript accompanying this Response). Such a "generalized but thorough inquiry into the impartiality of the veniremen" clearly met the requirements of the Constitution. Ristaino v. Ross, 424 at 598.

The trial court's decision prohibiting further voir dire concerning juror attitudes toward the use of illegal drugs is a matter of state law. The Supreme Court of Virginia, as the final arbiter of state law, has ruled that the trial court's decision complied with state law. That ruling is not subject to review by this Court.

III. Petitioner did not properly preserve his claim that the state trial court denied him an opportunity to voir dire a particular juror; and the trial court did not exclude a particular juror in violation of Witherspoon v. Illinois.

The state trial court excluded a prospective juror, Mr. Tostenson, on the basis of his responses to questions concerning his ability to impose the death penalty. (App. A at 14-15). Petitioner contends that this exclusion violated

the principles of Witherspoon v. Illinois, 391 U.S. 510 (1968). Petitioner also contends that the trial court denied him an opportunity to voir dire Mr. Tostenson for purposes of rehabilitation. (Ptn. at 9 n.6).

Petitioner's claim concerning the alleged denial of an opportunity to ask Mr. Tostenson any questions is not properly before this Court. The record conclusively shows that petitioner never stated an intention to ask Tostenson any questions and that "[n]o proffer was made as to the further questions which might have been put to the prospective juror...." (App. A at 16). For this reason, the Supreme Court of Virginia applied the State's contemporaneous objection rule, Rule 5:21, Rules of the Supreme Court of Virginia. (App. A at 16). Since petitioner did not properly preserve this claim for direct review by the Supreme Court of Virginia, the claim is not properly before this Court. Godchaux Co. v. Estopinal, 251 U.S. 179, 181 (1919); Beck v. Washington, 369 U.S. 541, 550 (1962).

In Witherspoon, this Court held that a juror may not be excluded simply because of "general objections to the death penalty or expressed conscientious or religious scruples against its infliction." 391 U.S. at 522. A juror may be excluded, however, if it is "unmistakably clear" that the juror "would automatically vote against the imposition of capital punishment without regard to any evidence that might be developed at the trial of the case...." Id. at 522 n.21.

Petitioner contends that the trial court erred by excluding Mr. Tostenson because the juror did not state "unambiguously" that he would automatically vote against imposition of the death penalty. Petitioner's reliance upon Witherspoon as authority for this proposition is misplaced.

In Witherspoon, the Court merely stated, "Unless a venireman states unambiguously that he would automatically vote against the imposition of capital punishment no matter what the trial might reveal, it simply cannot be assumed that that is his position." 391 U.S. at 515 n.9 (emphasis supplied).

In the present case, the trial court did not merely assume that the juror would automatically vote against the imposition of the death penalty. The trial court, which unlike this Court was in a position to both see and hear the prospective juror, made a determination based upon the entire voir dire that Tostenson would refuse to consider the imposition of the death penalty under any circumstances. (App. A at 15).

In Adams v. Texas, 448 U.S. 38 (1980), this Court held that a juror may be excluded consistently with Witherspoon if his views about capital punishment "would prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath." 448 U.S. at 45. Although Mr. Tostenson initially indicated that he would be able to follow his oath " regardless of what [the] evidence might develop to be" (App. E at 4), when he was asked specifically about his ability to vote for the death penalty, it immediately became apparent to the trial court that the juror began "to agonize" (App. E at 5-6). Obviously there was something present in the juror's demeanor, something which cannot be found from a mere reading of Mr. Tostensen's words from the cold pages of the record, which led the trial court to this conclusion.

The importance of the trial court's ability to observe the demeanor of a prospective juror during voir dire was

emphasized by the Court in Darden v. Wainwright, 699 F.2d 1031 (11th Cir. 1983). There the Court stated:

> Neither Witherspoon nor Adams provides trial courts with a formula or requisite colloquy for the proper excusal of prospective jurors on Witherspoon grounds. Instead, the trial judge must decide whether each particular venireperson has made it "unmistakably clear" that he or she is within one of the two prongs of Witherspoon. The trial judge is in the best position to evaluate the prospective juror's demeanor and answers to the questions. For this reason, trial judges are generally accorded broad discretion in evaluating juror impartiality.

699 F.2d at 1037. See also Barfield v. Harris, 540 F.Supp. 451, 465-66 (E.D.N.C. 1982); Mason v. Balkcom, 487 F.Supp. 554, 560 (M.D. Ga. 1980), reversed on other grounds, 669 F.2d 222 (5th Cir. 1982); Clines v. State, 656 S.W.2d 684, 688-89 (Ark. 1983); People v. Kubat, 447 N.E.2d 247, 275 (Ill. 1983); State v. Kirkley, 302 S.E.2d 144, 150-51 (N.C. 1983); Davis v. State, 665 P.2d 1186, 1194 (Okla. 1983); People v. Easley, 654 P.2d 1272, 1285 (Cal. 1982); Vanderbilt v. State, 629 S.W.2d 709, 729 (Tex. 1982).

Mr. Tostenson's responses were sufficient to communicate to the trial court an "unmistakably clear" commitment against the imposition of the death penalty. Those responses, and the manner in which they were given, made it clear to the trial judge, who was in the best position to evaluate them, that the juror would not vote to impose the death penalty "regardless of how severe the evidence might...be" (App. E at 7), or at the very least, that his ability to perform his duties as a juror would be "substantially impaired." Adams v. Texas, 448 U.S. at 45. (App. A at 16).

CONCLUSION

For the foregoing reasons, the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

COMMONWEALTH OF VIRGINIA

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CERTIFICATE OF SERVICE

I, Thomas D. Bagwell, Assistant Attorney General of Virginia, Counsel of Record for the respondent in the captioned matter, and a member of the Bar of the Supreme Court of the United States, do hereby certify that on or before the 25th day of November, 1983, three copies of the foregoing Response were mailed, first class postage prepaid to Charles J. Zauzig, III, Esquire, COLEMAN & ZAUZIG, 1954 Opitz Boulevard, Woodbridge, Virginia 22191, Counsel of Record for petitioner.

Thomas D. Bagwell
Assistant Attorney General

LODGING

83-5670

V I R G I N I A:

IN THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

COMMONWEALTH OF VIRGINIA,	:	
vs.	:	CRIMINAL NO. 11662
JOHN JOSEPH LEVASSEUR,	:	
Defendant.	:	

Courtroom No. 1 .
Prince William County Courthouse
Manassas, Virginia

Monday, August 30, 1982

The above-entitled cause came on to be heard before the HONORABLE H. SELWYN SMITH, Judge in and for the Circuit Court of Prince William County, in the Courthouse, Manassas, Virginia, beginning at 10:00 a.m.

APPEARANCES:

On behalf of the Commonwealth:

PAUL EBERT, ESQUIRE
Commonwealth Attorney

On behalf of the Defendant:

CHARLES ZAUZIG, JR., ESQUIRE
GARY COLEMAN, ESQUIRE

Circuit Court Clerk's Office
Prince William County, Va.
Filed Aug 30 1982
Deputy Clerk

twosome stage. All right?

MR. ZAUZIG: Thank you, very much, Your Honor.

(OPEN COURT)

THE COURT: Let's let the record now show that in Criminal Case No. 11662, all preliminary matters are out of the way. The defendant is John Joseph Levasseur, who is present at counsel table with his retained counsel, Mr. Gary P. Coleman and Mr. Charles J. Zauzig. The Commonwealth is represented today by its Commonwealth Attorney, Mr. Paul Ebert, and Mr. William Hamblen.

At this time, I'm going to ask the Clerk to -- before I do that, I will ask the ladies and gentlemen of the jury panel, and I direct these questions to the 14 of you that are sitting in the jury box and those of you who are seated on the front row. The 26 of you altogether constitute a portion of the jury panel in this case.

I am going to ask you to reflect, do any of you recall being here in the courtroom, in this particular courtroom, or in Courtroom No. 1, the one from which you just came, on May the 3rd, 1982? I'll give you a moment just to reflect.

(No response.)

THE COURT: The purpose of that is to find out

whether or not any of you were present at the time in which Judge Thornton instructed the Grand Jury and the case in which we are about to try here today was indicted on May 3rd by the Grand Jury that day.

I wanted to get any affirmative answers from any of you if it was that.

Let me say to you that it doesn't surprise me, because we make a practice of instructing the Grand Jury, not in privacy, but certainly, when there are not any jurors, prospective jurors in the courtroom, so we have a double-check on it.

At this time, I'll ask the ladies nad gentlemen of the jury, as your name is called, to stand and remain standing until such time as all names are called, and then we'll take a brief moment to give counsel and the accused an opportunity to view persons and faces, put them together, so to speak, and discuss anything that they may wish to discuss and communicate to the Court before we swear the jury panel in and go forward with the voir dire.

If you will stand as your name is called and remain standing, please.

THE CLERK: Sharon Kay Aitken.

Sherry K..Mullins.

Martin E. Everett.

Pauline Connaughton.

Richard Millard.

Edward C. Tostenson, Jr.

Rudolph E. Woltner, Jr.

Gerritt Beatty.

Delores A. Billings.

Anna V. Cornwell.

Linda Curren.

Thomas Blankenship.

Jo Anne Blevins.

Daniel Dovel.

Tim L. Everett.

Carol V. Hurt.

Daniel M. Berg.

Geoffrey A. Carlton.

Virginia Lo Galbo.

Joan Jennings.

Harrison G. Otis.

Harion T. Todaro.

Cary J. E. Wolfe.

Angela Belvins.

Agnes Garrity.

M. Frank Hawkins.

THE COURT: Do you have any questions concerning any one of the jurors that your client may have mistaken?

MR. ZAUZIG: No.

THE COURT: All right; thank you.

Swear the panel.

(Whereupon, the prospective jury panel was sworn to truthfully answer all questions propounded to them.)

THE COURT: Ladies and gentlemen of the jury panel, again, the 26 individuals, those in the front row and those in the jury box, please give me your very closest attention.

The case that we have to try here today is one of the Commonwealth of Virginia versus John Joseph Levasseur. Mr. Levasseur is the gentleman in the glasses, in the center, at the table to the left. Mr. Levasseur, if you will stand for me, please, and remain standing.

(Defendant complies.)

THE COURT: Mr. Levasseur is represented by Mr. Charles J. Zauzig and Mr. Gary Coleman.

Thank you, counsel.

The Commonwealth is represented today by Mr. Paul Ebert, its Commonwealth's Attorney and Mr. William Hamblen, Assistant Commonwealth's Attorney, the gentleman to the right.

Mr. Levasseur has already been arraigned and has plead not guilty to a charge and requested a trial by jury. The charge is one of capital murder, in that it is alleged that he did, on the 25th of February, 1982, in Prince William County, Virginia, unlawfully, feloniously, willfully, deliberately and premeditatedly kill and murder one Pamela Benner, in the commission of a robbery, while he was armed with a deadly weapon, all of that being against the peace and dignity of the Commonwealth.

There has been considerable media coverage concerning this crime, and perhaps some conversation about it at one place or another, and perhaps at your place or work or wherever you may visit or in which you may not have been engaged.

At this particular time, I would like to ask, and if anyone has an answer to the affirmative, please let me know, are any of you related by blood or marriage to the accused or to the person against whom the crime was committed, who is Pamela Benner?

(No response.)

THE COURT: Does any one of you know either the accused, Mr. John Joseph Levasseur, or Pamela Benner?

A JUROR: I played on a basketball team a few years

ago with John Levasseur.

MR. COLEMAN: Your Honor, I should also advise the Court that Mr. Millard is a client of mine, also.

THE COURT: All right.

With that in mind, I unfortunately perhaps, will have to make a decision in a few moments.

Yes, ma'am?

A JUROR: Yes; I do know John.

THE COURT: How well do you know him, ma'am?

A JUROR: From the business; you know, he worked in his parents' business.

THE COURT: You may remain -- any of you may remain seated when you're answering questions.

Let me ask you, is your relationship -- your knowledge of him, such that it would cause you to have some concern about whether you could give a fair and impartial trial to this defendant based upon the law and the evidence?

A JUROR: I think so.

THE COURT: All right; unfortunately, I'm going to have to discharge you if you can't answer that in the affirmative. I'll excuse you, ma'am.

Are you Joan Jennings?

MS. JENNINGS: Yes.

THE COURT: Obviously, ladies and gentlemen, as you can tell now, this is a very, very important case, and we are just taking an unduly amount of time and precautions and we need to know, emphatically, what we are doing when and by all persons, and, Mrs. Jennings, that's the only reason. You are free to go at this time.

MS. JENNINGS: Okay; thank you.

THE COURT: Anyone else who knows or is acquainted with Mr. Levasseur or the deceased, Pamela Benner?

I'll come back to you in just a moment; I haven't gotten to you, sir.

(No response.)

THE COURT: Is there anyone else on the panel who may be at this time a client of either one, Mr. Zauzig or Mr. Coleman?

(No response.)

Have any of you ever or any members of your family, that is mother, father, spouse or children, been clients of those two gentlemen?

(No response.)

Have any of you been clients of Mr. Ebert or Mr. Hamblen, when they were in private practice?

(No response.)

Now, going back to the gentleman, now, who was acquainted with Mr. Levasseur, is your acquaintance with him such that you feel you could not give a fair and impartial verdict based upon the law and the evidence in this case, sir?

MR. MILLARD: Yes.

THE COURT: All right, sir.

Unfortunately, I'll ask you to identify yourself.

MR. MILLARD: Richard Millard.

THE COURT: Mr. Millard, all right; I would excuse you at this time. Thank you very much for your attendance.

Is there anyone who might be acquainted with the families of either the accused or the deceased -- that is the family of John J. Levasseur, or Ms. Pamela Benner?

(No response.)

It is my understanding that the employer of the accused was Ken's Speed Print, Incorporated.

Are any of you officers, directors or stockholders of that corporation?

(No response.)

Are any of you agents or employees of that corporation?

(No response.)

Do any of you have any interest in the outcome of the case?

(No response.)

Have any of you acquired any information about the alleged offense or the accused from the news media or from any other source?

A JUROR: Could you elaborate on that last question, please?

THE COURT: Let me read that question to you again.

Have any of you acquired any information about the alleged offense -- that is the offense that took place on February the 25th, 1982, in Prince William County, and more specifically, the offense that's alleged to have taken place on Opitz Boulevard -- and beyond that, I'm not certain of the address -- but Opitz Boulevard, in the Woodbridge area.

A JUROR: Your Honor, the only thing I can say is that I have read accounts in the Potomac News.

THE COURT: All right, sir; I'll get to that question later on, sir. I suspect that a number of you may have done that.

MR. ZAUZIG: Brunswick Court, Your Honor.

THE COURT: Brunswick Court?

MR. ZAUZIG: Yes.

THE COURT: Is that off of Opitz Boulevard?

MR. ZAUZIG: Close to it.

THE COURT: All right; I am corrected.

The alleged offense took place on Brunswick Court, which is somewhere in the vicinity of Opitz Boulevard, and by all means, in the Woodbridge area of Prince William County, Virginia.

I might say that both of these individuals, that is the deceased as well as the accused, and correct me, gentlemen, if I am incorrect, but I believe they were both 19 years of age?

MR. ZAUZIG: That's correct, Your Honor.

THE COURT: With that correction, have any of you acquired any information about the alleged offense or the accused from the news media or any other source?

Yes, ma'am?

A JUROR: I have read it in the newspaper.

THE COURT: All right; my next question -- would the fact that some of you, and at least two of you recall having read something about it, would that fact have any

effect upon your decision in this case, or do you think you could -- is there any reason why you could not sit here and reach a fair and impartial verdict, based upon what you have read or heard?

A JUROR: I will try to reach a fair and impartial verdict.

THE COURT: All right.

I would like to have a little more emphatic answer than, "I will try."

A JUROR: I will.

THE COURT: Any question in your mind about the fact that you could listen to the law and the evidence in this case, and based upon the law and the evidence, reach a fair and impartial verdict, even though you have read something about it?

A JUROR: No, sir; there is no question.

THE COURT: Your name for the record, please, ma'am?

MS. CURREN: I'm Linda Curren.

THE COURT: And the gentleman, sir?

MR. WOLTNER: I feel I could be impartial -- Mr. Woltner.

THE COURT: You could be impartial?

MR. WOLTNER: Yes.

THE COURT: And your name, for the members of --

MR. WOLTNER: Mr. Woltner.

THE COURT: An indictment does not carry any element of guilt. The accused is presumed to be innocent.

Is there anyone of you who cannot accept this premise or presumption?

(No response.)

Is there anyone who feels as though the mere fact that this person has been indicted and on trial, is an indication of guilt?

(No response.)

Then it is silent affirmation that all persons accept the premise in the law that a person is innocent until proven guilty beyond a reasonable doubt?

(No response.)

Would the mere fact of the indictment create any inference or implications in the mind of any of the jurors?

(No response.)

Have any of you expressed or formed an opinion as to the guilt or innocence of the accused?

(No response.)

Is there any one of you who may have expressed or formed an opinion as to the innocence or guilt of the

accused?

(No response.)

Are you in any way biased or prejudiced against the Commonwealth or the accused?

(No response.)

The defendant, John Levasseur, is a Vietnamese. The victim, Pamela Benner, was a white Caucasian. Would those facts prejudice you against John Levasseur, or affect your ability to render a fair and impartial verdict based solely upon the evidence?

(No response.)

THE COURT: Mr. Ebert, I believe that the questions that the counsel were going to ask, were reserved for the subsequent stage.

MR. EBERT: Yes, sir.

THE COURT: Mr. Zauzig, do you have questions that you wish to ask at this stage?

MR. ZAUZIG: Just a few, Your Honor.

As the Court told you, my name is Charles Zauzig, and I represent John Levasseur.

I just have a few questions I'd like to ask you and apply to you -- just raise your hand, if you would.

Have any of you served as a juror before today?

(Hands raised.)

And what is your name, ma'am?

MS. LOGALBO: LoGalbo.

MR. ZAUZIG: Are you related -- any of you, related to any person in any way, to anybody involved in law enforcement?

MS. TODARO: I am.

MR. ZAUZIG: What is your name, ma'am?

MS. TODARO: Marion T. Todaro.

MR. ZAUZIG: Mary?

MS. TODARO: Marion.

MR. ZAUZIG: Who are you related to?

MS. TODARO: My husband is a D. C. police officer.

MR. ZAUZIG: Would that affect your ability to render a fair and impartial verdict?

MS. TODARO: No, sir.

MR. ZAUZIG: Would that make you give more weight to the testimony of a police officer than any other witness?

MS. TODARO: No.

MR. ZAUZIG: Thank you.

MR. BERG: Dan Berg.

My stepfather is a Capital Policeman.

MR. ZAUZIG: Mr. Berg, would that affect your

ability to render a fair and impartial verdict in this case?

MR. BERG: No, sir.

MR. ZAUZIG: How about, would it affect the weight you would give a police officer's testimony over any other witness?

MR. BERG: No, sir.

MR. ZAUZIG: Thank you.

To follow up on that, do any of you, or close relative or spouse, work for the attorney general's office, probation/parole offices, sheriff department or a bail bondsman?

(No response.)

Have any of you ever been the victim of a crime?

Yes, sir? What is your name, sir?

MR. WOLTNER: Rudolph Woltner.

MR. ZAUZIG: Was it recent?

MR. WOLTNER: Possibly one year ago.

MR. ZAUZIG: Would that affect your ability to render a fair and impartial verdict in this case?

MR. WOLTNER: I don't believe so.

MR. ZAUZIG: You don't believe?

MR. WOLTNER: No.

MR. ZAUZIG: Someone else raised their hand?

MR. BEATTY: Garrett Beatty.

Approximately 12 months ago, I had two tires stolen from my automobile which was in a commuter parking lot at Gordon Boulevard and Interstate 95.

MR. ZAUZIG: Would the fact that that happened to you, would that affect your ability to render a fair and impartial verdict in this case?

MR. BEATTY: No, no.

MR. ZAUZIG: Yes, ma'am?

MS. CURREN: Linda Curren.

I had my house broken into when I lived in Wiltshire.

MR. ZAUZIG: Would that make you unable to render a fair and impartial verdict?

MS. CURREN: No.

THE COURT: There's one other, Mr. Zauzig, the gentleman on the right front.

MR. ZAUZIG: I'm sorry?

MR. DOVEL: Daniel Dovel.

I had a chain saw stolen from my firm.

MR. ZAUZIG: Would the fact that that happened to you, would that make you unable to render a fair and impartial

verdict in this case?

MR. DOVEL: No, sir.

MR. ZAUZIG: And that was Mr. Dovel?

MR. DOVEL: Yes, sir.

MR. ZAUZIG: Do any of you have a member of your family -- spouse, parent, brother, sister or a child, that's been a victim of crime?

(No response.)

MR. ZAUZIG: Is there anyone here that's utterly opposed to the consumption of alcohol?

(No response.)

MR. ZAUZIG: Now I have asked this question to a few of the persons that were related to police officers; there are going to be police officers testifying in this trial. Are there any of you that would give more weight to their testimony, by mere fact that they're police officers, than you would to any other witness that will testify in the case?

(No response.)

MR. ZAUZIG: All right; there are also going to be psychiatrists and psychologists testifying in this case. Are there any of you that know of any bias or prejudice you would have against a psychiatrist or a psychologist or

the field of psychiatry which would prevent you from considering such testimony?

(No response.)

MR. ZAUZIG: Thank you.

Your Honor, I have no further questions.

THE COURT: Do you wish to waive No. 4, No. 4 on the typewritten form?

MR. ZAUZIG: Yes, sir.

THE COURT: All right, sir.

Are there any questions the Commonwealth wishes to ask the panel?

MR. EBERT: No, Your Honor; not at this time.

THE COURT: Thank you.

Now, ladies and gentlemen that are still remaining; I believe we have 24; at this time, because of the nature of this case, I'm going to have to digress a little bit from the usual procedure. I'm going to put the 24 of you who remain, back in the jury room, back behind the courtroom here, until such time as I have to call you back again. We need to add some to your ranks, so to speak. And at that particular time, I will call you back, after we get the panel straight, I will call you back in various stages.

While you are back in the jury rooms, and I believe

you can use both jury room back there, I would ask you to remain in the jury rooms, except for your personal needs, and then go back to the jury room.

Do not discuss this case among you in any way, shape or form. I hope that you will not even converse about anything concerning courtroom procedures during this period of time while you're waiting. We have considerable other work to do before we get you back in there.

All right; you will be called back in later. You will go with the Bailiff at this time.

(Whereupon, the first 24 prospective jurors were excused from the courtroom.)

THE COURT: I don't know if we should call another group or if we should go with the individual voir dires now in order to eliminate as many of these people as we can at this stage.

Are the two jury rooms full?

THE BAILIFF: Yes.

THE COURT: Let's bring in another group from Judge Thornton's courtroom.

Is this matter that you wish to take up out of the presence of the jury, something that --

MR. HAMBLEN: It doesn't matter when we do it,

as long as you do it pretrial.

THE COURT: All right.

Let's take -- let's go on with selecting the jury.

Bring in the next group from Judge Thornton's courtroom.

(Whereupon, the second panel of prospective jurors was escorted into the courtroom.)

THE COURT: All right; the same admonishment I have previously made, Mr. Zauzig.

I will ask the members of the jury, as your name is called, stand and remain standing until all persons' names are called. At that time you will be sworn, but in the meantime, it will give the defense and the defendant and opportunity to view you and put names with faces. And we will briefly pause while we give him a chance to make any statement he wishes to make to his counsel concerning the jury panel.

Stand as your name is called.

THE CLERK: Joan L. Finkle.

Bernard McDaniel.

Margaret Merdino.

Patricia W. Royal.

Christina L. England

Alberto Lopez.

Anna V. McLaughlin.

Helen L. Taylor.

Pat Hearst.

Angela Blevins.

Mary Webb.

MR. ZAUZIG: I just have one question, if I may. Who was the fifth person called?

THE COURT: All right, the lady who is No. 5, what is your name, please?

MS. ENGLAND: Christina L. England.

THE COURT: Thank you.

THE CLERK: Would you raise your right hands, please.

(Whereupon, the second panel of prospective jurors was duly sworn to truthfully answer all questions propounded to them.)

THE COURT: Ladies and gentlemen, the case that we have to try here today is one of the Commonwealth of Virginia versus John Joseph Levasseur.

Mr. Levasseur is the gentleman -- if he will stand at this time, I will reintroduce him -- is the gentleman

standing who is represented by Mr. Charles Zauzig and Mr. Gary Coleman. The Commonwealth is represented today by Mr. Paul Ebert, who is the Commonwealth's Attorney, and Mr. William Hamblen.

The allegations in the case are these: that on the 25th day of February, 1982, in Prince William County Virginia, it is alleged that John Joseph Levasseur did unlawfully, feloniously, willfully, deliberately and premeditatedly, kill and murder one Pamela Benner in the commission of a robbery, while he was armed with a deadly weapon; all of this against the peace and dignity of the Commonwealth.

The crime, as I said, is alleged to have happened on the 25th of February, 1982, in -- what is the name of the court again?

MR. ZAUZIG: Brunswick Court.

THE COURT: -- Brunswick Court, which is in the vicinity of Opitz Boulevard, in the Woodbridge area of Prince William County, Virginia.

Now we know that there has been some media coverage and perhaps some of you have participated in conversations concerning this alleged crime.

Now with those questions and that preamble in mind,

I would ask you, are any of you related by blood or marriage to either the accused person or the person against which the alleged offense was committed?

(No response.)

Are any of you personally acquainted with the accused or members of his immediate family?

(No response.)

Are any of you personally acquainted with the alleged victim or any members of her immediate family?

Yes, ma'am?

A JUROR: She lived about five houses up the street from me.

THE COURT: You knew the girl?

A JUROR: Yes.

THE COURT: I think without a doubt, this young lady should be excused.

Ma'am, your name again, please?

MS. ENGLAND: Christina England.

THE COURT: Ms. England, I'm going to have to excuse you.

We appreciate your being here; thank you very much for your attendance. You are free to go or you're free to stay in the courtroom if you like.

Is there anyone else who may be acquainted with the victim or the victim's family?

(No response.)

Are any of you related to or personally acquainted with either one of the counsel in this case?

(No response.)

Are there any one of you who is presently a client of or is a member of your immediate family -- mother, father, brother, sister, spouse or any of your offspring -- clients, of either Mr. Zauzig or Mr. Coleman?

(No response.)

Have any one of you ever been clients of either Mr. Ebert or Mr. Hamblen when they were in private practice?

(No response.)

Are any of you officers, directors, stockholders, agents or employees of Ken's Speed Print, Incorporated, who was the employer of the accused?

(No response.)

Do any of you have any interest in the trial or the outcome of the case?

(No response.)

Have any of you acquired any information about the alleged offense or the accused from the news media or any

other source? Did any of you read about it, hear about it or discuss it?

All right; it is pretty much in the affirmative from all of you.

All right; my last is, is any of this information which you may have gained, regardless from what source, would it affect your impartial decision based upon the law and the evidence?

(No response.)

Is there anyone who feels that in view of what he or she has learned from those sources, is there anyone who feels that they could not render a fair and impartial verdict, based upon the evidence that you will hear in this courtroom here today and the law, which I will instruct you on?

(No response.)

An indictment does not carry an element of guilt; the accused is presumed to be innocent. Is there any one of you who could not accept the premise or presumption?

(No response.)

Does the mere fact of the indictment create any inference or implication of guilty in any of your minds?

(No response.)

Is there anyone who feels as though the mere fact that this defendant is on trial here, that that may be an implication or indication that he is guilty?

(No response.)

I want to ask you specifically, is there any one of you -- does any one of you recall being in the courtroom, particularly Courtroom No. 2, the one from which you just came, on May the 3rd, 1982? At that particular time, Judge Thornton instructed the Grand Jury which indicted this defendant.

(No response.)

Let me say that I suspected that answer because we instruct Grand Juries out of the presence of prospective petty jurors, but I just wanted the record to reflect that question.

Have any one of you expressed or formed an opinion as to the innocence or guilt of the accused in this case?

(No response.)

Are any of you in any way biased or prejudiced against the Commonwealth or the accused?

(No response.)

The defendant, John Levasseur, is a Vietnamese; the victim, Pamela Benner, was a white Caucasian. Will those

facts prejudice you against John Levasseur, or affect your ability to render a fair and impartial verdict based solely on the evidence?

(No response.)

Mr. Ebert, I believe you waived your right to any questions at this time?

MR. EBERT: Yes; we have no questions at this time, Your Honor.

THE COURT: Mr. Zauzig?

MR. ZAUZIG: Good morning; I'm just going to ask you a few questions.

Did any of you ever serve on a jury, either civil or criminal before?

(A show of hands.)

MR. ZAUZIG: You are Ms. Taylor?

MS. TAYLOR: Yes.

MS. BLEVINS: The same.

MR. ZAUZIG: The same?

And you are --

MS. BLEVINS: Angela Blevins.

MR. ZAUZIG: Okay; criminal or civil?

MS. BLEVINS: Civil.

MR. LOPEZ: I have before.

MR. ZAUZIG: Your name?

MR. LOPEZ: Lopez.

MS. McLAUGHLIN: McLaughlin; civil.

MR. ZAUZIG: Are any of you related to anybody that is involved or works in law enforcement?

Yes, ma'am?

A JUROR: My husband, FBI.

MR. ZAUZIG: And you're --

MS. McLAUGHLIN: McLaughlin.

MR. ZAUZIG: Would the fact that he -- is the fact that he works for the FBI, would that affect your ability to render a fair and impartial verdict in this case?

MS. McLAUGHLIN: No, I don't think so.

MR. ZAUZIG: Would you answer that either with a yes or no or you're not sure?

MS. McLAUGHLIN: No; it wouldn't affect it.

MR. ZAUZIG: Would that fact make you give more weight to a police officer's testimony than any other witness?

MS. McLAUGHLIN: No.

MR. ZAUZIG: Are you sure?

MR. EBERT: She has already answered the question.

THE COURT: She has answered the question, Mr.

Zauzig.

MR. ZAUZIG: Who else?

Your name?

MS. HEARST: Pat Hearst.

MR. ZAUZIG: And your --

MS. HEARST: I have a brother-in-law, who is a U. S. Marshall and a nephew who is a police officer.

MR. ZAUZIG: You heard the questions I just asked Ms. McLaughlin. Can you tell me if that would affect your ability to render a fair and impartial verdict?

MS. HEARST: No, I don't believe it will because I know them as people and not as on the job -- you know, how they conduct themselves on the job.

MR. ZAUZIG: Thank you.

So your answer to the follow-up question would be -- as to whether you would give more weight -- would be the same?

MS. HEARST: Yes.

MS. WEBB: My name is Mary Webb, and my husband is a practicing attorney in town and I'm his secretary, so I don't know -- I don't believe that that would affect my ability to be a juror in this case. I just thought you might like to know.

MR. ZAUZIG: Thank you.

I asked you about law enforcement. How about, do you know anybody or are you related to, that has worked for the attorney general, the probation office, the parole office, sheriff's department -- I've already gotten one answer on that -- or a bail bondsman?

(No response.)

MR. ZAUZIG: Have any of you ever been a victim of a crime?

Yes, ma'am?

A JUROR: It's just that the house was broken into once.

MR. ZAUZIG: That was --

A JUROR: It was about three years ago.

MR. ZAUZIG: Three years ago?

A JUROR: Yes.

MR. ZAUZIG: And your name is --

MS. ROYAL: Royal.

MR. ZAUZIG: Royal.

Could you tell me if that would affect your ability to decide this case in a fair and impartial manner?

MS. ROYAL: No.

A JUROR: I was assaulted, but I don't think it

would affect my judgment.

MR. ZAUZIG: How long ago did that happen; was it recent or --

A JUROR: No, it wasn't too recent.

MR. ZAUZIG: Okay.

Yes, sir?

A JUROR: I've had a bicycle stolen and wheelcovers off my automobile.

MR. ZAUZIG: Okay; and your name?

MR. McDANIEL: Bernard McDaniel.

MR. ZAUZIG: Do you think that would --

MR. McDANIEL: No.

MR. ZAUZIG: Okay.

Yes, ma'am?

MS. FINKLE: My name is Joan Finkle and I had some jewelry stolen about two years ago.

MR. ZAUZIG: Would the fact that that happened to you, would that render it impossible for you to come back with a fair and impartial verdict?

MS. FINKLE: No.

MR. ZAUZIG: I have asked a few of you questions regarding the police officer's testimony. Is there any of you that would give more weight to a police officer's testimony

than you would any other witness that may testify?

(No response.)

MR. ZAUZIG: In this case, there is also going to be several psychiatrists and psychologists testifying. Do any of you know of any prejudice or bias that you have against psychiatrists, psychologists, or the field of psychiatry, which would prevent you from considering such testimony?

(No response.)

Is there anyone here who is utterly opposed to the consumption of alcohol?

(No response.)

Thank you.

THE COURT: Do counsel's questions provoke any questions that the Commonwealth wishes to ask at this time?

MR. EBERT: No, Your Honor; they're all acceptable to the Commonwealth.

THE COURT: Thank you.

Ladies and gentlemen, at this particular time, now, we are going to digress from the usual and the norm, and I'm going to ask that you all go back -- and I will ask -- not in the jury room because they are perhaps full at this time but I'm going to ask the bailiff to put you in the witness rooms in the back. You will be called in a period of time

consider it as evidence in support of the defense.

I think that's the heart of it.

THE COURT: Well, I'll permit you to ask it in this matter, and this goes on creating the presumption that they are all opposed to the use of illegal drugs. You may phrase it in the manner, not specifically, but along this line:

"Assuming that you are all opposed to the use of illegal drugs, would this fact, alone, prejudice you to such a degree that you could not consider their usage, if the evidence develops that they were used, as a part of the defense."

MR. ZAUZIG: All right.

THE COURT: Call the next group.

THE CLERK: Anna V. Cornwell and Linda Curren.

THE COURT: Ladies, may I have your attention, please, and I'll refresh your memory.

I will remind you that this case we're trying today is one in which John J. Levasseur is charged with unlawfully and feloniously, willfully, deliberately and premeditatedly killing and murdering one Pamela Benner in the commission of a robbery, while he was armed with a deadly weapon. The crime is alleged to have taken place on the 25th of

February, 1982 in Prince William County, Virginia -- in the Woodbridge area.

We do know that there has been considerable media coverage of the alleged facts.

Have either of you acquired any information about the alleged capital murder and the accused, from the media, news media or from any other source?

MS. CURREN: I have read in the Journal, but it has been several months ago. I read something about the case.

THE COURT: As a result of having read this, do you feel any bias or prejudice against the accused?

MS. CURREN: No, sir.

THE COURT: Have you formed any opinion or reached any conclusion on the guilt or innocence of the accused?

(Both denied.)

THE COURT: Can you put aside the information acquired from the news media or from any other source and be objective, be fair, be impartial, and reach a fair and impartial verdict, based solely on the evidence and the law you will hear in this courtroom today?

(Both agreed.)

THE COURT: Do either of you have any religious or

conscientious scruples or objections against the imposition of the death penalty?

(Both denied.)

THE COURT: Do you know of any reason whatsoever, why you might not give a fair and impartial trial to the Commonwealth and the accused, based solely on the law and the evidence?

(Both denied.)

THE COURT: Those of you who are ultimately chosen to serve as jurors, will be given another oath. The oath would be to well and truly try and a true deliverance make between the Commonwealth and the defendant, and a true verdict render, according to the law and the evidence.

Does either one of you have any problem with maintaining the mandate of the oath, regardless of what the evidence might develop to be?

(Both denied.)

THE COURT: Mr. Ebert.

MR. EBERT: Could both of you, if the law and evidence warranted the same, consider death as one of two alternatives in this case?

(Both agreed.)

MR. EBERT: Could each of you actually vote for

death if the law and evidence so warranted?

(Both agreed.)

MR. EBERT: I have no further questions; they're acceptable to the Commonwealth.

THE COURT: Mr. Zauzig.

MR. ZAUZIG: I would assume that both of you are opposed to drugs, the use of illegal drugs. Do you have any bias or prejudice that would make you unable to consider the usage by the defendant, of illegal drugs, as part of his defense?

MS. CORNWELL: Say that again.

MR. ZAUZIG: Would you be able to -- would you be unable to consider the usage by the defendant of illegal drugs, as a part of his defense?

MS. CORNWELL: I think so.

THE COURT: You would be able to consider it or --

MS. CORNWELL: I would be against the use of the drugs.

THE COURT: That presumption is there for all law-abiding citizens.

The fact that he might have used that -- the fact that it may develop that he had used illegal drugs, could you consider that as a part of his defense?

MS. CORNWELL: No.

MR. ZAUZIG: Your Honor, I have a motion.

THE COURT: Motion is denied.

MR. ZAUZIG: Note my exception.

THE COURT: Exception duly noticed.

All right; ladies, you may go back to the jury room and remain in the jury room until such time as you're called.

Do not discuss the case among yourselves or any-- one else that's back there.

THE CLERK: Thomas Blankenship.

JoAnne Blevins.

THE COURT: All right.

Lady and gentleman, as I previously told you, the case that we're trying here today is one in which Mr. John Joseph Levasseur is charged that he did unlawfully, feloniously, willfully, deliberately and premeditatedly, kill and murder one Pamela Benner in the commission of robbery while he was armed with a deadly weapon. The offense is alleged to have occurred on the 25th of February, 1982, in the Woodbridge area of Prince William County, Virginia.

We know that there has been considerable media

CERTIFICATE OF REPORTER

I, Janet M. Pfeiffer, the stenographic reporter who was duly sworn to well and truly report the foregoing proceedings, do hereby certain that they are true and correct to the best of my knowledge and ability; and that I have no interest in said proceedings, financial or otherwise, nor through relationship with any of the parties in interest or their counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th of October, 1982.

Janet M. Pfeiffer

JANET M. PFEIFFER, CVR
Court Reporter